Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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CASE No. 317 of 2018

Case of Adani Electricity Mumbai Ltd (Distribution Business) for review of certain aspects of Mid-Term Tariff Order dated 12 September, 2018 in Case No. 200 of 2018

And

Miscellaneous Application No. 21 of 2018

Application of Adani Electricity Mumbai Ltd. (Distribution Business) in Case No. 317 of 2018

Coram

Anand B. Kulkarni, Chairperson
I.M. Bohari, Member
Mukesh Khullar, Member

Adani Electricity Mumbai Limited Distribution Business Petitioner

Appearance

For the Petitioner: Smt. Deepa Chavan (Adv)

ORDER

Dated: 24 December, 2018

1. Adani Electricity Mumbai Limited (Distribution Business) (**AEML-D**) has filed a Petition on 26 October, 2018 under Section 94 (1) (f) of the Electricity Act 2003 (**EA**), read with Regulation 85 of the MERC (Conduct of Business) Regulations, 2004 for review of certain aspects of the Mid-Term Review (MTR) Order dated 12 September, 2018 in Case No.200 of 2018.

2. AEML-D's prayers are as follows:

a) "Review portions of the order dated 12.09.2018 passed in Case No.200 of 2017 as set out in the present Petition and consider the issues addressed in paragraphs 3 to 8 hereinabove;

b) That this Hon'ble Commission be pleased to consider and allow the depreciation on consumer contribution from FY 2012-13 to FY 2015-16 disallowed in the Order;

c) That this Hon'ble Commission be pleased to reinstate the IoWC treated as efficiency gains for FY 2016-17;

d) That this Hon'ble Commission be pleased to allow the cost of power purchase from DSPPL from FY 2015-16 onwards by considering the rates proposed by the Petitioner in the MYT Order;

e) That this Hon'ble Commission be pleased to allow capitalization of Rs. 0.06 Crore in FY 2016-17 pertaining to Services Improvement DPR for FY 2016-17 and consider the capitalizations in FY 2017-18 and FY 2018-19 under Services New Supply and Improvement DPRs for FY 2016-17 and FY 2017-18 in the Next Tariff Petition based on DPR completion reports to be provided by the Petitioner and the actual cost incurred thereunder, subject to prudence check of such costs;

f) That this Hon'ble Commission be pleased to allow capitalization of Rs. 1.11 Crore in FY 2016-17 pertaining to Metering DPR for FY 2016-17;

g) That this Hon'ble Commission be pleased to consider the impact of the issues related to O&M expenses in the Appeal before the Hon'ble ATE (Appeal No. 12 of 2017) in future Tariff Orders in case the outcome of the Appeal is in favor of the Petitioner by revising the base O&M expense (of FY 2015-16) and target O&M expense from FY 2016-17 to FY 2019-20;

3. Vide Miscellaneous application dated 19 November, 2018 AEML-D raised issue of computation error in calculating carrying cost on RAC and prayed for following

a. *To allow recovery of Regulatory Asset of Rs 491.78 Crore for FY 2018-19 instead of Rs 471.45 Crore allowed for FY 2018-19 and re-determine the Regulatory Asset charges for FY 2018-19 and FY 2019-20*

4. At the time of hearing held on 27 November, 2018 AEML-D reiterated the submissions made in the review Petition and Misc-Application.

5. The Commission noted that the Review Petition has been filed under Regulation 85 of the MERC (Conduct of Business) Regulations, 2004 which specifies as follows:

   Review of decisions, directions, and orders:

   "85. (a) Any person aggrieved by a direction, decision or order of the Commission, from which (i) no appeal has been preferred or (ii) from which no appeal is allowed, may, upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the direction, decision or order was passed or on account of some mistake or error apparent from the face of the record, or for any other sufficient reasons, may apply for a review of such order, within forty-five (45) days of the date of the direction, decision or order, as the case may be, to the Commission."

   Thus, the ambit of review is limited and AEML-D's Petition has to be evaluated accordingly.

6. AEML-D's contentions and the Commission's rulings on each issue are set out below, considering the provisions of Regulation 85(a) of the MERC (Conduct of Business) Regulations, 2004 which governs review.

<u>ISSUE I</u>: Disallowance of depreciation relating to Consumer Contribution from FY 2012-13 to FY 2015-16

AEML-D's Submission

7. It has claimed depreciation on consumer contribution till FY 2015-16 in accordance with MYT Regulations, 2011. The Commission has itself recognized the fact that there was no specific provision in MYT Regulations, 2011 not to permit depreciation on consumer contribution. In the circumstances, it is a clear error by disallowing such depreciation on consumer contribution since such claim was made by AEML-D clearly in accordance with the MYT Regulations then prevailing.

8. In the impugned Order, the Commission held that it had consistently disallowed the depreciation on consumer contribution for all Distribution Licensees in the State of Maharashtra for the second Control Period. However, the fact that the AEML-D had been claiming depreciation on consumer contribution was not known to the Commission.

Thus depreciation on consumer contribution has un-intentionally been allowed in previous years to the AEML-D.

9. The Commission has held that it had been deducting the Consumer Contribution from capitalization while determining debt and equity employed during the years in question. On this ground, the Commission disallowed the depreciation on consumer contribution for FY 2015-16 and for previous years though there was no specific exclusion in the MYT Regulations, 2011 with regard to RoE and Interest. It is submitted that allowance of depreciation on consumer contribution should be viewed differently from allowing debt and equity during the year. Since part of the asset is funded through consumer contribution, debt and equity cannot be allowed on the entire asset value, as part of the capital required for the asset is funded through consumers and is available to the Licensees free of cost. Allowing the debt and equity on the entire asset will result in higher interest cost and RoE burden on consumers, even though the Licensee has not invested the entire capital in the asset. Thus, the comparison sought to be drawn by the the Commission in the Order, is, not justified. Allowing depreciation on consumer contribution would increase the depreciation allowable to the Licensee. At the same time, the interest cost burden on consumers also reduces correspondingly as depreciation is considered as repayment as per MYT Regulations.

10. Further, while allowing the O&M Expense for FY 2015-16, the Commission had stated that it has not accepted the restating of Net Entitlement of O&M Expenses for FY 2014-15 as proposed by the AEML-D, since the final truing up of FY 2014-15 was carried out by the MYT Order dated 21 October, 2016, which cannot be reopened and is beyond the scope of Mid Term Review. By the same logic, the Commission should not have reopened the issue of previous years also as the final truing up of these years had already been carried out in previous Tariff Orders

Commission's Analysis and Ruling

11. This is not an error apparent on the face of the record, and the Commission has given detailed justification on this issue in the impugned Order while disallowing the depreciation on assets funded out of Consumer Contribution. The review Petition cannot be an Appeal in disguise, and the remit of review is very limited.

12. Hence, the review sought by AEML-D on this issue needs to be rejected.

<u>ISSUE II</u> Consideration of actual Interest on Working Capital for FY 2016-17 as "Zero" and consideration of difference between Normative Interest on Working Capital and "Zero" actual Interest on Working Capital as Efficiency Gains

AEML-D's Submission

13. AEML-D is an integrated entity having other regulated and unregulated business apart from Distribution business. Being an integrated entity with several businesses, it was not possible for it to identify separate cash flows for any business or allocate any separate funds towards working capital requirement of any particular business. In absence of any possible identification of utilization of corporate funds by a particular business segment, AEML-D identified its actual working capital requirement through an analysis of its payables and receivables (i.e. amount and days involved) and assigned the working capital so identified an interest rate as per MYT Regulations, 2015 to determine market reflective cost of such funds.

14. In its working of "actual working capital" submitted to the Commission, it has not only considered the revenue, O&M cost, etc. but it had also considered the actual days of payables and receivables i.e. the actual credit period availed by it towards payments of power purchase and the actual timing of receipt of payments from its customers. The calculation showed timing / amount differences, which leads to requirement of time-gap funding, which is working capital. The credit period available to its customers and that provided to it by its power suppliers are all as per prevailing Regulations / PPA conditions, which are notified / approved by the Commission. However, the Commission did not accept the submissions and considered the actual interest on working capital incurred by AEML-D for 2016-17 as "zero" by on the one hand accepting its contentions that there are timing differences between revenue receipts and payments and on the other hand holding that "*the Licensee may very well manage its cash inflows and outflows in such a manner that working capital requirement itself is nullified.*" and no documentary evidence was submitted by AEML-D to substantiate actual interest on working capital incurred purportedly placing reliance on Regulation 31.6.

15. The Commission, in the impugned Order has held that a Licensee may very well manage its cash inflows and outflows in such a manner that the working capital requirement is itself nullified. This is a clear error apparent on the face of the Order, because issue is covered in favor of the Petitioner by a judgment of the Appellate Tribunal for Electricity in Appeal No.111 of 2008 wherein it has been specifically held that internal funds employed for working capital also carry costs which would be looked into and allowed by the Commission.

16. It is thus requested that the Commission may be pleased to review para 4.11 of the impugned Order and restore the share of efficiency gains for consumers, which was deducted from the ARR of the Petitioner for FY 2016-17.

Commission's Analysis and Ruling

17. This is not an error apparent on the face of the record, and the Commission has given detailed justification on this issue in the impugned Order while considering the actual IoWC as zero. AEML-D had not submitted any documentary evidence to claim IoWC as is required in accordance with the MERC MYT Regulations, 2015. The review Petition cannot be an Appeal in disguise, and the remit of review is very limited.

18. Hence, the review sought by AEML-D on this issue needs to be rejected.

ISSUE III:-Disallowance in cost on power purchase from Dhursar Solar Power Pvt. Ltd. (DSPPL) for FY 2016-17 (true up), for FY 2017-18 (provisional true up) and for FY 2018-19 and FY 2019-20 (Revised ARR)

AEML-D's Submission

19. In the MTR Petition, AEML-D without prejudice to the pending Appeal, claimed cost of purchase of solar power using the methodology adopted by the Commission. Such rates were applied by AEML-D based on various generic orders of the Commission. While determining the weighted average rate, AEML-D has considered the generic tariff of the year immediately preceding the year for which incremental RPO is to be met, as against the Commission which considered the preferential tariff of the same year. The ruling of the Commission implies that the EPA will be signed in the same year to meet the incremental solar RPO of the year. It is submitted that to set up any solar plant, lead time of at least 6 to 8 months is required after signing of EPA. Assuming that if EPA is entered in April of a particular year and plant is commissioned within 6 months, it will only generate 50% of the total incremental quantum, resulting in shortfall of RPO for the particular year. The Commission has not at all considered the rates applied by the Petitioner.

20. There is an error on the face of record as the issue in Appeal before the ATE is not related to the details of the methodology followed by the Commission, but it is merely that, being a single contract with a power generator, which is also approved by the Commission, a single rate of procurement for entire power should be considered to the extent of RPO requirement.

21. Accordingly, it is requested to consider the rates as proposed by AEML-D and approve the power purchase cost for DSPPL and the difference be allowed to be recovered as FAC through tariff

Commission's Analysis and Ruling

22. This is not an error apparent on the face of the record, and the Commission has given detailed justification on this issue in the impugned Order while considering the rate for power purchase from DSPPL as follows:

The Commission has approved the Solar power purchase cost upto RPO, as per the methodology followed by it in the MYT Order, as the same is sub-judice before the APTEL.

Accordingly, the approved cost of Solar power procurement against the RPO target for FY 2016-17, as per the methodology adopted by the Commission in the MYT Order is as given in the Table below:

Table-1: Solar RPO Procurement Cost for FY 2016-17 as approved by the Commission

Particulars	*RPO Requirement (MU)*	*Rate (Rs./kWh)*	*Total Cost (Rs. Cr.)*
FY 2011-12	*18.61*	*17.91*	*33.33*
Incremental Quantity for FY 2013-14	*18.98*	*8.98*	*17.04*
Incremental Quantity for FY 2014-15	*6.60*	*7.95*	*5.24*
Incremental Quantity for FY 2015-16	*1.70*	*7.95*	*1.35*
Incremental Quantity for FY 2016-17	*20.02*	*6.04*	*12.09*
Total	*65.91*	*10.48*	*69.06*

Note: RPO Requirement for FY 2012-13 was lower than FY 2011-12 by 0.27 MU, therefore, it has not been considered.

The review Petition cannot be an Appeal in disguise, and the remit of review is very limited.

23. Hence, the review sought by AEML-D on this issue needs to be rejected.

ISSUE-IV Disallowance of capitalization in Services New Supply DPRs and Improvement DPRs for FY 2016-17 and FY 2017-18

24. AEML-D stated that the cost approved in the in-principle approval of a DPR cannot be treated as the ceiling for actual capitalization. Actual capitalization in a DPR scheme may differ from the approved capitalization depending on the change in scope, material rates, labour rates, RI charges and other costs, etc. Final approval of capitalization in a DPR scheme should be allowed after prudence check of actual quantum of materials used, actual cost of materials, cost of auxiliary materials and other costs and on submission of completion report of the DPR. However, the Commission has disallowed the additional cost for services and improvement DPRs for FY 2016-17 and FY 2017-18

based on the in-principle approval of cost for these DPRs, which in the submission of AEML-D is a mistake and/or an error. The implementation of the schemes is for the benefit of the consumers, new as well as existing. Therefore, such cost having been incurred for the aforesaid purpose cannot be denied as it is complying with its Universal Service Obligation.

A Services New Supply DPRs for FY 2016-17 and FY 2017-18 (paras 4.7, 5.5 and 6.5 of the Order)

FY 2016-17:

25. For New Supply DPRs for FY 2016-17, the Commission has held that at the time of DPR approval, since FY 2016-17 was already over, AEML-D submitted the actual material utilization for FY 2016-17. The actual material utilization had been submitted by AEML twice. The lower of both these submissions had been considered for DPR approval after prudence check. The Commission has considered lower of the quantities submitted in DPR estimates (submitted on 27.11.2017) and the actual quantity consumption till December 2017 (submitted on 22.01.2018). In this regard, it is submitted that the original DPR was phased out till March 2018 and the works under the DPR are ongoing. The finding of the Commission that lower of the two submissions made with regard to actual material utilization submitted by the AEML-D has been considered, is incorrect inasmuch as the Commission has considered the lower of the amounts mentioned in the segregated DPR submitted on 27.11.2017and the submission of actual quantity consumption till December 2017 given by the letter dated 22.01.2018. Thus, the Commission has not at all considered the quantities as well as the expenses incurred under the DPR in question given by the letter dated 12.02.2018 up to January 2018. It is thus submitted that there is a factual error in the finding of the Commission that the DPR approval is being accorded based on actual material utilization for FY 2016-17. It is submitted that as mentioned above, the implementation of the DPR continued beyond December 2017 and such costs which are legitimately incurred are not at all considered by the Commission.

FY 2017-18:

26. As regards the New Supply DPR for FY 2017-18, the Commission has held in the Order that at the time of approval of DPR, FY 2017-18 was partially over. It further held that the Petitioner had submitted the actual material utilization under the DPR for FY 2017-18 upto December 2017. Same data was extrapolated to further 3 months for arriving at the estimation for the entire year. A perusal of the Order would show that the cost overrun beyond the approved cost of the DPR is not considered. It is submitted that the original New Supply DPR for FY 2017-18 was phased out till March 2019 and the works under the DPR will continue till FY 2018-19 or FY 2019-20. Thus the approval of

the DPR given on the basis of nine months of actual material utilization is a mistake and an error.

27. Further, as a Distribution Licensee and it is mandatory for AEML-D to provide supply to new consumers after getting the application for supply under Electricity Act, 2003. Therefore the cost on materials and associated cost for extending service to new consumers should be allowed. Because of the works carried out under New Supply DPR for FY 2016-17, new connections are released to consumers and growth in sales and revenue is realised by the Licensee. The Commission has disallowed actual capitalisation in New Supply DPR, but has considered the entire sales and revenue for FY 2017-18 (including the sales and revenue realized due to the New Supply DPRs for FY 2016-17 and for FY 2017-18). Additional sales and revenue realized due to the New Supply DPRs for FY 2016-17 and FY 2017-18 has already been considered by the Commission in the Order, the corresponding cost should also be considered and allowed.

B Services Improvement DPRs for FY 2016-17 and FY 2017-18 (paras 4.7, 5.5 and 6.5 of the Order)

FY 2016-17:

28. The Commission's contention that the Improvement DPR for FY 2016-17 was approved on the basis of actual material consumption of FY 2016-17 is incorrect. Improvement DPR for FY 2016-17 was approved based on the quantity of material submitted till February 2018 only (on 09.04.2018). Material and cost booking in Improvement DPR for FY 2016-17 did not get over by February 2018, but has continued in FY 2018-19, as some of the projects which got started in FY 2016-17 under Improvement DPR for FY 2016-17 will get over in FY 2018-19.

FY 2017-18:

29. As regards the Improvement DPR for FY 2017-18, the Commission in the Order has stated that at the time of DPR submission, FY 2017-18 was almost over. Approval was given based on the actual material consumption data given by the Petitioner upto February, 2018 i.e. (11-month data) and consumption of March 2018 was pro-rata added to it for arriving at the yearly data. In view of the above, the cost overrun in the scheme is not considered for approval. It is submitted that Improvement DPR for FY 2017-18 does not get over in March 2018, but has continued in FY 2018-19 also. Because some of the projects which got started under this DPR for FY 2016-17 will be completed in FY 2018-19 or FY 2019-20.

30. The Commission has also stated that the Improvement DPRs for FY 2016-17 and FY 2017-18 were approved based on the unit rates submitted by AEML-D without any

change. From the analysis of approved cost, it appears that the Commission has reduced the unit rates vis a vis the unit rates submitted by APML-D. While submitting the break-up of unit cost had stated that the material prices were considered as per the latest POs. Actually, the material rates vary as prices of materials are different for different POs. Other cost such as labour charges, RI charges and indirect/supervision cost also vary in actuals vis a vis the cost considered in unit rates. However, the Commission has not considered the submission of the Petitioner and has limited the capitalization under these DPRs to the in-principle approval cost. The actual capital expenditure as incurred has passed the muster of Audit (audit of annual accounts) and should be considered for approval in tariff.

C. Disallowance of capitalization of Rs. 1.11 Crore related to Metering DPR scheme for FY 2016-17

31. The Commission has disallowed Rs. 1.11 Crore of capitalization relating to Metering DPR for FY 2016-17 by holding the difference between actual cost and cost as per in-principle approval as cost overrun. Overrun of cost is required to be seen from the point of view of executed scope and not from the point of view of approved scope. The executed scope included 2050 Meters more than the approved scope and this was because of the fact that, even though these meters failed in the Warranty Period, the replacement will have to be done with New Meters only, because the consumer cannot be expected to wait for the meter to turnaround from the vendor, after repair. The repaired meter will become part of the inventory and used for new supply or replacement elsewhere, thereby displacing the cost of new meter which would otherwise have been required. In distribution business, a running inventory is maintained for service cables, meters, panels, circuit breakers, etc. and so long as a new equipment is consumed (issued from inventory for installation), the cost will be considered in accounts, even though the old equipment was under warranty period, because the old equipment will get recycled and come back to inventory for use elsewhere. The only advantage with having a Warranty is that the cost of repairs is not borne by Licensee, because repairs are carried out free of cost by vendor.

32. The cost of 2,050 new meters which were used in place of old meters (which turned defective during FY 2016-17 and whose status was provided) should have been allowed. AEML-D submits that defective meters are rectified to the extent possible and are reused on an ongoing basis, either for new connection or for replacement. In case, a new meter used for replacement of old meter is disallowed, the old meter, after recycling, will have to be brought back into the system at new meter cost. It cannot happen that on the one hand, new meter cost is disallowed in case of recycled meters, and on the other, the benefit of avoidance of future capex is also considered. That amounts to double counting and is incorrect.

Commission's Analysis and ruling

33. This is not an error and the capitalisation for the respective years has been considered based on the capital expenditure approved by the Commission after prudence check of the DPRs submitted by AEML-D. Relevant part of impugned MTR Order is reproduced below:

"iv. Metering Schemes (2016-17): DPR approved cost is Rs. 16.88 Crore, while RInfra-D has claimed capitalization for FY 2016-17 as Rs. 17.99 Crore. RInfra-D has given reasons in the Petition and stated that the new meter quantity considered by the Commission in its in-principle approval is 95,237, instead of 97,287 which is actual. RInfra-D submitted that this difference appears to pertain to 2050 meters, which were used for replacement of old defective meters within the warranty period. In case of such meters, which fail within the Warranty Period, the vendor carries out repairs or replacement at its cost. However, the consumer cannot wait for the meter to come back from the vendor. Therefore, the meter is immediately replaced at site with a new meter or recycled meter, as may be available. Similarly, in case of meters damaged due to customer faults, even if the same is within warranty period, the on-site replacement is carried out immediately, while the charges are recovered from the consumer as per Schedule of Charges. Vendor does not accept the claims of damaged or burnt meters due to customer faults. In case of former, i.e., where the faulty meter is sent to vendor, the cost of new meter installed at site is booked in capex and the repaired meter is moved to stock and used again, thereby avoiding future capex. In case of meter damage by customer, the cost of new meter installed at site is booked in capex and the charges recovered from customer are passed through in Non-Tariff Income as per MYT Regulations. Therefore, in either case, the cost of such meters failing in Warranty Period or due to customer faults gets squared off and customers are not burdened with it.

The Commission notes that while approving the DPR, the cost of replacement of defective meters (2050 nos. which became defective before the warranty period) were not considered for approval considering RInfra-D's submission that these meters get replaced from the respective vendors. RInfra-D, now in the Petition, has explained its rationale to justify its plea for consideration of cost towards replacement of these defective meters. RInfra-D has also provided the status of 2050 defective meters as follows:

Particulars	***Quantity***
Meters available at MTD, being recycled	*55*
Meters recycled and installed on site	*1221*
Meters scrapped due to burnt /damage	*673*
Meters sent to vendor for repair	*101*
Total	***2050***

From RInfra-D's submission, it is observed that the defective meters are either recycled at the Meter testing Department or sent to vendor for necessary repairs. After due rectification, these meters are installed at site. Thus, along with newly purchased meters, these recycled meters are also installed at site whenever required. The Licensee is not required to incur expenditure for the recycled meters as required for purchase of new meters. In view of this, allowing the cost of these defective meters before end of warranty period is not justified except for the cases which are scrapped due to burnt/damage (673 in numbers) as these are scrapped. Also, the cost towards these 673 meters works out to Rs. 5.80 Lakh, which is negligible as compared to the cost overrun of Rs. 1.11 Cr.

RInfra-D has further stated that there also appear to be some variance in approved vs. actual cost, on account of unit rate of meters. While estimating in the DPR, the latest unit rate is provided to the Commission. However, in actual use, Meters are also used from earlier stock, purchased in previous year(s) and lying un-used in inventory. The cost of such purchase would, therefore, be different because it was made earlier. It is generally seen that meters purchased earlier were costlier than the rates at which they are available now. Therefore, in the instant case, there is some excess expenditure also on account of unit rate variance, because the actual rate booked in capex depends on the stock from which the actual new meter was used, which will not necessarily be the new stock always.

The Commission notes that the above reasoning provided by RInfra-D is a general reasoning. RInfra-D has stated that meters purchased earlier were costlier than the rates at which they are available now. This may not be always true. Further, based on RInfra-D's own submissions, it is seen that recycled meters are also used, some of which may be the meters recycled after their failure within warranty period. The Licensee is not required to incur expenditure for the recycled meters as required for purchase of new meters. In view of the above, the Commission does not find merit in the justification given by RInfra-D and the cost overrun is disallowed. Also, the DPR has been approved based on actual data given by RInfra-D for FY 2016-17 after completion of FY 2016-17.

Detailed explanation for the capitalisation allowed and capitalisation disallowed has been given in the impugned MTR Order.

34. Therefore, AEML-D's request for review on this issue is not maintainable

ISSUE-IV Disallowance in O&M Expense of FY 2015-16 or the Base O&M Expense for third Control Period

35. The Commission did not consider the submissions of AEML-D to re-state the allowable O&M expenses of FY 2014-15 on the grounds that the issue of O&M expense for FY 2014-15 is the subject matter of Appeal pending before the ATE.

36. The allowable O&M expenses of FY 2015-16 is the Base level for determining the target O&M expenses for each year of the Control Period FY 2016-17 to FY 2019-20. Therefore, the judgment of the APTEL on the matter, could result in re-statement of FY 2014-15 O&M expenses and the same should be considered for re-working the Base O&M expenses of FY 2015-16 and thereafter for each year of the third Control Period FY 2016-17 to FY 2019-20.

37. While the impugned MTR Order records the fact that the allowable O&M expenses of FY 2014-15 are a subject matter of Appeal before APTEL, it does not record anything regarding working out the consequential impact of the judgment on the allowable / target O&M expenses of FY 2015-16 to FY 2019-20.

38. AEML-D requests the Commission to consider the impact of these issues in future Tariff Orders based on the outcome of the Appeal if the same is in favor of AEML-D by revising the base O&M expense (of FY 2015-16) and target O&M expense from FY 2016-17 to FY 2019-20.

Commission's Analysis and ruling

39. This is not an error apparent on the face of the record, and the Commission has given detailed justification on this issue in the impugned Order while considering the Base O&M expenses of FY 2015-16 for the purpose of approving the O&M expenses for the Control Period from FY 2016-17 to FY 2019-20. Relevant part of impugned MTR Order is reproduced below:

> ***Base O&M Expenses***
> *The Commission has considered the O&M expenses after sharing of Efficiency Gains and Losses for FY 2015-16 as approved in this Order, i.e., Rs. 698.26 crore and Rs. 342.03 crore for the Wires Business and Supply Business, respectively, totalling to Rs. 1040.30 crore for the combined Wires and Supply Business.*
>
> *The Commission has accepted RInfra-D's submission regarding Wage Revision arrears due in FY 2015-16, which were paid by RInfra-D in FY 2016-17, and has hence, added the same to the O&M Expenses approved for FY 2015-16 after sharing of Efficiency Gains and Losses. Further, as elaborated in Chapter 3 of this Order in the true-up for FY 2015-16, one R&M Scheme was deferred from FY 2014-15 to FY 2015-16. As this head of R&M expenses should ideally be considered under the R&M expense of FY 2014-15, the Commission has deducted this expense, to the extent of*

Rs. 11.67 crore and Rs. 0.87 crore for the Wires Business and Supply Business, respectively, for computing the revised normative O&M expenses for FY 2015-16, which are to be used as the Base O&M Expenses for allowing the normative O&M expenses for the third MYT Control Period. The computation of the Base O&M Expenses for allowing the normative O&M expenses for the third MYT Control Period is shown in the Table below:

Table -2: Base O&M expenses for FY 2015-16 approved by the Commission (Rs. Crore)

Particulars	*Wires*	*Supply*	*Total*
Net O&M Expenses, after sharing of gains/(losses)	*698.26*	*342.03*	*1040.30*
Less: R&M Expenses deferred from FY 2014-15 to FY 2015-16	*11.67*	*0.87*	*12.54*
Add: Wage Revision amount of FY 2015-16 paid in FY 2016-17	*48.04*	*21.26*	*69.30*
Re-stated Base O&M Expenses for FY 2015-16	***734.64***	***362.42***	***1,097.06***

40. It is clarified that in case the Appeals filed by the Petitioner are decided in favour of the Petitioner, then the consequential impact on the O&M expenses of the respective year as well as on the Base O&M expenses of FY 2015-16, and hence, the O&M expenses for the Control Period, shall be passed through in future Tariff Orders.

ISSUE-V Error in calculation of Regulatory Asset to be recovered in FY 2018-19

41. In the impugned MTR Order dated 12 September, 2018, there is an error in calculation of carrying cost for FY 2018-19. The recovery of Regulatory Asset for FY 2018-19 with correct carrying cost should have been Rs. 491.78 Crore instead of Rs. 471.43 Crore.

42. Computation of carrying cost, on any past gap or regulatory assets, when phased for recovery over a few years, is done by determining the average of opening and closing balance of such gap for the year, as the gap is assumed to be recovered evenly over the year. This is the usual practice of computing interest or carrying cost, as has been adopted by the Commission. As evident from FY 19-20 computation also, the carrying cost is correctly calculated by determining average balance for FY 19-20 as half of outstanding balance as on April 1, 2019 and applying interest rate on that. However, for FY 18-19, application of the same method results in Rs. 61.06 crore as carrying cost, whereas the Commission has computed it as Rs. 40.70 Crore.

43. Therefore, it is requested to review impugned MTR Order and allow recovery of Regulatory Asset of Rs. 491.78 Crore for FY 2018-19 instead of Rs. 471.45 Crore. Further, if this differential is allowed, but not permitted for recovery through altering the RA charges, then it would have to be treated at the time of true-up of FY 18-19, and further carrying cost would accrue on the under-recovered amount. Therefore, the

Commission is requested to re-determine the Regulatory Asset charges for FY 18-19 and FY 19-20, so that the differential carrying cost can be recouped as much as possible.

Commission's Analysis and ruling

44. Upon verification of the financial model underlying the impugned MTR Order, the Commission observes that there is a calculation error while calculating carrying cost on the Regulatory Asset recovery in FY 2018-19, and the Carrying Cost has been computed on the opening level of Regulatory Asset rather than the average Regulatory Asset during the year. As a result, the Carrying Cost has been understated by Rs. 20.35 crore in FY 2018-19.

45. This is an error apparent on the face of the record and review on this issue is maintainable. The under-recovery of Rs. 20.35 crore with due carrying cost shall be considered by the Commission at the time of truing up for FY 2018-19.

46. Hence, the following Order:

Order

1) **Case No. 317 of 2018 is partly allowed.**

2) **There is error in calculation of carrying cost of Rs. 20.35 crore i.e Rs. 471.43 crore instead of Rs. 491.78 crore in MTR Order dated 12 September, 2018 in Case No. 200 of 2018 on the Regulatory Asset recovery in FY 2018-19. Hence same is allowed to the tune of Rs. 491.78 crore in this review.**

Sd/-	Sd/-	Sd/-
(Mukesh Khullar)	**(I.M.Bohari)**	**(Anand Kulkarni)**
Member	**Member**	**Chairperson**

(Abhijit Deshpande)
Secretary

MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
॥ आदित्य हृदयम ॥